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6
7 UNITED STATES DISTRICT COURT
8 CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

9
10 **UNITED STATES OF AMERICA,**) **CASE NO. CR 08CR1191-7-GW**
11 Plaintiff, })
12 v. }) **SENTENCING MEMORANDUM**
13 **IVAN QUEZADA,** })
14 Defendants. })
15
16 _____
17
18 Ivan Quezada, by and through his counsel of record, Mark Windsor, here files his
19 position re sentencing and objections to the pre sentence report in this matter. These are
20 based on the attached memorandum, and such further documents, evidence, and argument
21 as the court may permit.

22
23 DATED: May 10, 2010

Respectfully Submitted,

24 /s/
25 _____
26 Mark Windsor
27 Counsel for Mr. Quezada
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2 **I.**
3
4 **INTRODUCTION**

5 Mr. Quezada has pled guilty, pursuant to a written plea agreement filed with
6 the court, to Count Five of the indictment charging a violation of 18 U.S.C.
7 §1959(a)(3), violent act in aid of racketeering. Mr. Quezada submits that a
8 sentence of time served with forthwith release is sufficient in this case.

9
10 **II.**
11 **OBJECTIONS TO THE PRESENTENCE REPORT**

12 **Guidelines Calculations**

13 Mr. Quezada concurs in the calculations of the PSR.

14
15 **Factual Objections**

16 (1) On page 15 at paragraph 84, the probation officer states, “During a June
17 25, 2002 placement interview, placement personnel discovered that the defendant
18 had a history of self-mutilation and arson. A psychological evaluation was
19 requested. In the evaluation, the issues of arson and self-mutilation were addressed,
20 but the psychologist did not believe either of these issues were a present danger to
21 the defendant.” In point of fact, the evaluating psychologist concluded, based upon
22 interviews with Mr. Quezada and past treatment providers, as well as review of
23 relevant reports, that Mr. Quezada exhibited no signs of predisposition toward
24 arson or self-mutilation. We therefore ask that any reference in the report to arson
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1 or self-mutilation be stricken.

2 (2) On the cover page of the report, under Release Status, the report lists
3 Mr. Quezada as having been in federal custody since April 24, 2009. Mr. Quezada
4 was arrested on April 20, 2009 in this case. He should be listed as having been in
5 custody since that date.
6

7 **Criminal History Calculation Objections**

8 The probation officer assigns Mr. Quezada nine criminal history points, all
9 under section 4A1.1 (c) of the Guidelines. The maximum allowable points under
10 4A1.1(c) is four. Therefore, Mr. Quezada's criminal history calculation should be
11 based upon four criminal history points, which should result in a criminal history
12 category of III. This is appropriate in any event, as his criminal history is
13 overrepresented at any higher category.
14

15 **Specific Offense Characteristics**

16 Mr. Quezada does not concur with nor agree to the characterizations
17 expressed by the probation officer with regard to the Eastside Gang in paragraphs
18 11-14 of the report.
19

20 **III.**
21

22 **THE INDIVIDUAL BEFORE THE COURT**
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24 Mr. Quezada is 24 years old and the father of a daughter born while he was
25 in custody in this case. His only adult conviction of any gravity was for the
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27

identical conduct underlying the count of conviction in this case.

IV.

RECOMMENDED SENTENCE

After considering the factors of 18 U.S.C. § 3553(a), the United States Sentencing Guidelines, and the additional factor addressed above, this Court should sentence Mr. Quezada to a term of 13 months with the express indication that this sentence is credit for time served, and with an order that he be released forthwith. I have spoken to counsel for the government, in the form of AUSA Mark Aveis, who concurs with this sentencing recommendation.

Respectfully submitted,

Dated: May 10, 2010

/s/
MARK WINDSOR
Attorney for Ivan Quezada